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for the Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities LLC
and for the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

TOBY T. HOBISH, as an individual and as
trustee, LI RAM L.P., a New York limited
partnership, AMY A. HOBISH, MITCHELL K.
HOBISH, as an individual and as trustee,
RICHARD S. HOBISH, TOBY T. HOBISH
LIVING TRUST, a New York trust, MARITAL

Adv. Pro. No.10-05236 (SMB)

TRUST UNDER ARTICLE XXII OF THE
HERBERT W. HOBISH LIVING TRUST, a New
York trust, and NON MARITAL TRUST UNDER
ARTICLE XXII OF THE HERBERT W.
HOBISH LIVING TRUST, a New York trust,

Defendants.

**STIPULATION REGARDING DISMISSAL OF CERTAIN CLAIMS
AND DEFENDANTS**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, by and through his counsel, Baker & Hostetler LLP, and Defendants (“Defendants”), by and through their counsel, Dentons US LLP (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 6, 2010, the Trustee filed the Complaint against Defendants. The Trustee filed an Amended Complaint in the District Court on January 25, 2012. Defendants filed an Answer to the Amended Complaint on April 18, 2014.

2. Numerous defendants in other related adversary proceedings, but not Defendants, filed motions to dismiss (the “Motions to Dismiss”) complaints or amended complaints filed against them by the Trustee.

3. On June 2, 2015, the Bankruptcy Court granted in part and denied in part the Motions to Dismiss for reasons set forth in its Memorandum Decision Regarding Omnibus Motions to Dismiss (the “Decision”) [ECF No. 10089 in Adv. Pro. No. 08-01789 (SMB)] which included a dismissal with prejudice of counts seeking to avoid obligations pursuant to sections 548(a)(1) and 544 of the Bankruptcy Code (the “Obligations Counts”) and a dismissal without prejudice of counts seeking to recover subsequent transfers from subsequent transferee

defendants pursuant to section 550(a) of the Bankruptcy Code, applicable provisions of SIPA including section 78fff-2(c)(3) and New York Debtor and Creditor Law (the “Subsequent Transferee Counts”).

4. Pursuant to the Decision, the Obligations Counts are dismissed with prejudice.

5. Pursuant to the Decision, Count Fourteen of the Amended Complaint and subsequent transferee defendants Marital Trust Under Article XXII of the Herbert W. Hobish Living Trust (“Martial Trust”), Toby T. Hobish as beneficiary and trustee of the Martial Trust, Mitchell K. Hobish as trustee of the Marital Trust, Non Marital Trust Under Article XXII of the Herbert W. Hobish Living Trust (“Non Marital Trust”), Toby T. Hobish as beneficiary and trustee of the Non Marital Trust, Mitchell K. Hobish as trustee of the Non Marital Trust, Toby T. Hobish Living Trust (“Toby Trust”), Toby T. Hobish as trustee and beneficiary of the Toby Trust, Mitchell K. Hobish as trustee of the Toby Trust, Amy A. Hobish as limited partner of Defendant Li Ram L.P. (“Defendant Partnership”), Mitchell K. Hobish as limited partner of Defendant Partnership, and Richard S. Hobish as limited partner of Defendant Partnership (collectively, “Dismissed Defendants”) are dismissed without prejudice. Upon the dismissal of Dismissed Defendants, the caption of the Action is hereby amended to delete Dismissed Defendants from the caption. The amended caption of the Action shall appear as indicated in Exhibit A to this Stipulation.

6. On June 22, 2015, the Supreme Court of the United States denied *certiorari* of the Trustee’s appeal of *SIPC v. Ida Fishman Revocable Trust*, 14-1128 and *Picard v. Ida Fishman Revocable Trust*, 14-1129 (the “Supreme Court Decision”), and thus section 546(e) of the Bankruptcy Code applies to this adversary proceeding.

7. Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, as incorporated by Rule 7041 of the Federal Rules of Bankruptcy Procedure, the Trustee's claims in Counts One and Four through Thirteen of the Complaint are hereby dismissed with prejudice.

8. This Stipulation has no effect on Counts Two and Three remaining in the Complaint.

9. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

Dated: August 11, 2015

Of Counsel:

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